



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

October 3, 2005

CERTIFIED RETURN RECEIPT
7002 0510 0003 8602 8512

Gary Gray, Resident Agent
Genwal Resources, Inc.
P.O. Box 1077
Price, Utah 84501

Subject: Proposed Assessment for State Violation No. N05-49-2-1, Genwal Resources, Inc., Crandall Canyon Mine, C/015/0032, Outgoing File

Dear Mr. Gray:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Karl R. Houskeeper, on September 8, 2005. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of

Page 2
Gary Gray
October 3, 2005

the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

D. Wayne Hedberg
Assessment Officer

Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office
O:\015032.CRA\Compliance\2005\N05-49-2-1Ltr.doc

**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Genwal Resources, Inc. / Crandall Canyon Mine
PERMIT C/015/0032 NOV / CO # N05-49-2-1 VIOLATION 1 of 1

ASSESSMENT DATE September 28, 2005

ASSESSMENT OFFICER D. Wayne Hedberg

I. HISTORY (Max. 25 pts.)

- A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____

1 point for each past violation, up to one (1) year
5 points for each past violation in a CO, up to one (1) year
No pending notices shall be counted

TOTAL HISTORY POINTS NA

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Hindrance (B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event that the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event that a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? ACTUAL
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

*****Operator failed to comply with the terms and conditions of the approved mining and reclamation plan. Failure to conduct an aerial survey annually to monitor subsidence (see page 5-25, paragraph 5 of the MRP) prevented Division from assessing the extent of subsidence following mining and impacts that may be a result of underground mining activities. The inspector was hindered from being able to assess the amount of subsidence and thus determine the extent of any damage. The history and remoteness of this area would indicate that subsidence-related impacts would be minimal, but without the completed survey information, impacts are hard to determine. While the 2004 data is lost, the operator can resume surveys in the future. Points assessed are in the middle of the range.**

TOTAL SERIOUSNESS POINTS (A or B) 13

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation that was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE 15

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

*****The operator committed to conduct aerial surveys for subsidence monitoring each year for the areas above and within the 20-degree angle of draw of the actual mined area. The operator failed to conduct the 2004 aerial survey. This indicates a lack of diligence or reasonable care to complete the monitoring requirement. The operator should understand the need to complete the annual subsidence survey. Points are assessed in the middle range of the negligence category.**

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

C	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
C	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
C	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| C | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| C | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| C | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

******There is no assigned abatement for not conducting the 2004 aerial survey. The opportunity is lost to collect the 2004 subsidence data and it cannot be obtained after the fact.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N05-49-2-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>13</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>28</u>

TOTAL ASSESSED FINE \$ 880